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RICHARD W. WIERING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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LAFACE RECORDS LLC; WARNER BROS.
RECORDS INC.; UMG RECORDINGS, INC.;
MAVERICK RECORDING COMPANY; ARISTA
RECORDS LLC; and ZOMBA RECORDING LLC

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HRL

LAFACE RECORDS LLC, a Delaware limited
liability company; WARNER BROS.
RECORDS INC., a Delaware corporation;
UMG RECORDINGS, INC., a Delaware
corporation; MAVERICK RECORDING
COMPANY, a California joint venture;
ARISTA RECORDS LLC, a Delaware limited
liability company; and ZOMBA RECORDING
LLC, a Delaware limited liability company,
Plaintiffs,

v.

JOHN DOE,
Defendant.

CV 08

1043

EX PARTE APPLICATION FOR LEAVE TO
TAKE IMMEDIATE DISCOVERY

1 Plaintiffs, through their undersigned counsel, pursuant to Federal Rules of Civil Procedure 26
2 and 45, the Declaration of Carlos Linares, and the authorities cited in the supporting Memorandum
3 of Law, hereby apply *ex parte* for an Order permitting Plaintiffs to take immediate discovery.

4 In support thereof, Plaintiffs represent as follows:

5 1. Plaintiffs, record companies who own the copyrights in the most popular sound
6 recordings in the United States, seek leave of the Court to serve limited, immediate discovery on a
7 third party Internet Service Provider ("ISP") to determine the true identity of Defendant John Doe,
8 who is being sued for direct copyright infringement.¹

9 2. As alleged in the complaint, Defendant John Doe, without authorization, used an
10 online media distribution system to download Plaintiffs' copyrighted works and/or distribute
11 copyrighted works to the public. Although Plaintiffs do not know the true name of Defendant John
12 Doe, Plaintiffs have identified Defendant by a unique Internet Protocol ("IP") address assigned to
13 Defendant on the date and time of Defendant's infringing activity.

14 3. Plaintiffs intend to serve a Rule 45 subpoena on the ISP seeking documents that
15 identify Defendant's true name, current (and permanent) address and telephone number, e-mail
16 address, and Media Access Control ("MAC") address. Without this information, Plaintiffs cannot
17 identify Defendant John Doe or pursue their lawsuit to protect their copyrighted works from repeated
18 infringement.

19 4. Good cause exists to allow Plaintiffs to conduct this limited discovery in advance of a
20 Rule 26(f) conference where there are no known defendants with whom to confer.

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¹ Because Plaintiffs do not yet know Defendant's true identity, Plaintiffs are unable to personally serve Defendant with a copy of this motion. Instead, Plaintiffs will serve the Clerk of Court pursuant to Fed. R. Civ. P. 5(b)(2)(C) ("If the person served has no known address, [service under Rule 5(a) is made by] leaving a copy with the clerk of the court.") and will serve Defendant's ISP with a copy of this motion. Additionally, if the Court grants this motion, Plaintiffs will ask the ISP to notify the Defendants of the subpoena and provide Defendant with an opportunity to object.

1 WHEREFORE, Plaintiffs apply *ex parte* for an Order permitting Plaintiffs to conduct the
2 foregoing requested discovery immediately.

3 Dated: February 21, 2008

HOLME ROBERTS & OWEN LLP

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5 By: 

6 MATTHEW FRANKLIN JAKSA

7 Attorney for Plaintiffs

8 LAFACE RECORDS LLC; WARNER

9 BROS. RECORDS INC.; UMG

10 RECORDINGS, INC.; MAVERICK

11 RECORDING COMPANY; ARISTA

12 RECORDS LLC; and ZOMBA

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